

## Appendix 1:

### City of Asheville Unified Development Ordinance, Chapter 7

#### **Sec. 7-11-7. Sidewalk requirements.**

(a) *Purpose.* The purposes of this section are to insure that adequate provision of transportation and other public requirements, the promotion of health, safety and the general welfare and the coordination of streets and other public facilities are considered in the development and use of property and that development and use of property are done in accordance with an adopted City of Asheville transportation or corridor plan, including but not limited to such plans as the Transportation Improvement Program (TIP), greenway, small area, pedestrian thoroughfare plan. The city council hereby incorporates by reference as if set forth in full herein the findings of the City's Pedestrian Thoroughfare Plan and further finds and declares that the construction of sidewalks advances those interests of the city and, in order to accomplish those purposes, this section sets out requirements for the construction of sidewalks and, where a developer requests it and certain conditions exist, for the payment of a fee in lieu of the requirement for construction of sidewalks.

(b) *Guidelines for requiring sidewalks.* Sidewalks shall be required for all new construction and for renovations, additions and/or expansions to existing structures which fall into one of the following categories:

(1) All new single family residential development which consists of 20 or more single family homes;

(2) All new multi-family residential development, except for the construction of less than ten units;

(3) All new office, institutional, commercial, and industrial development;

(4) All existing office, institutional, commercial, and industrial development additions or expansions to structures where the expansion results in an increase of more than 50 percent value of the structure as defined in section 7-11-2(b)(1)a of this chapter.

(5) All new streets, improved streets or extension to streets.

(c) *Additional conditions for requiring sidewalks.* Notwithstanding (b) above, the following findings must be made prior to the city engineer/designee requiring the construction of a new sidewalk or a "fee in lieu of" constructing a sidewalk for an applicable project. One of the following conditions must be met, as determined by the city engineer/designee.

(1) The applicable project area, including the street frontage, is identified as a needed pedestrian linkage within an adopted City of Asheville transportation or corridor plan, including but not limited to such plans as the Transportation Improvement Program (TIP), greenway, small area, pedestrian thoroughfare plans.

- (2) The current or projected (within five years) average daily traffic count (ADT) for the street is 300 vehicles per day or more as determined by the City Traffic Engineer. Traffic generated from the applicable project or any additions to the applicable project will be included in calculating the ADT for this condition.

In the event that sidewalk is not required, the developer must provide a recorded easement, if necessary, for the future development of the sidewalk. The developer wherever practical shall grade for the future development of a sidewalk.

- (d) *Public and private streets.* Sidewalks shall be constructed along all public and private street frontages that meet the requirements of section 7-11-7(c) of the lot for which the development is proposed.

All sidewalks shall be constructed in accordance with the standards set forth in the City of Asheville Standard Specifications and Details Manual.

- (e) *Fee in lieu of construction.* Where a new sidewalk is required to be constructed, the city engineer/designee may waive the requirement that a sidewalk be constructed provided that the applicant make a written request to the city engineer/designee for a waiver. The waiver will be granted under the conditions that the city engineer/designee determine that one of the following conditions exists and that the applicant pays a fee in lieu of constructing the sidewalk as described in the Fees and Charges Manual.

- (1) The pedestrian facility is not identified in the current Pedestrian Thoroughfare Plan as a needed pedestrian linkage.
- (2) The sidewalk is proposed to be constructed within an existing right-of-way where sufficient right-of-way or easement width does not exist or cannot be dedicated to build the sidewalk.
- (3) The pedestrian facility is identified on the Pedestrian Thoroughfare Plan but is a part of a NCDOT or city-funded project that includes sidewalks.

In no case shall the fee in lieu of constructing the sidewalk exceed 15 percent of the total cost of the approved project. The total cost of the project shall include all construction costs associated with the improvement as approved by the City of Asheville.

In the event that a fee in lieu of constructing a sidewalk is approved, the developer must provide a recorded easement if necessary for the future development of the sidewalk. The developer wherever practical shall grade for the future development of a sidewalk.

The fee in lieu of construction will not apply to level three projects unless specifically approved by the city engineer/designee. The fee in lieu of construction will not apply to new or reconstructed streets unless condition (e)(2) above applies.

- (f) *Appeals.* In the event that a developer wishes to appeal the ruling of the city engineer/designee, the developer must provide a letter to the city manager or their designee within ten working days of receiving written notice of the ruling from the city engineer/designee.

- (g) *Appeal committee.* There is hereby created a three-member sidewalk appeals committee for the City of Asheville. The committee shall consist of the city manager or his/her designee and two other city department directors

appointed from time to time by the city manager. The city manager or their designee shall serve as the chairperson of the committee and have overall responsibility for the proper functioning of the committee, the committee's jurisdiction shall be limited to hearing appeals from the city engineer/designee regarding the sidewalk ordinance.

(h) *Powers of the committee.* The committee may affirm, reverse, modify or amend the rulings of the city engineer/designee by a majority vote. In reviewing the decision of the city engineer/designee, the committee shall determine whether the city engineer/designee's decision is consistent with the purpose and intent of the Code requiring sidewalks. In order to reverse a decision of the city engineer/designee, the committee must first find that the city engineer/designee's interpretation of the Code is wrong.

(i) *Use of fees.* All fees collected by the city pursuant to these provisions shall be accounted for separately from other monies, shall be expended only for the construction or rehabilitation of sidewalks or other pedestrian improvements in the same area as the development is located as defined by the city engineer/designee, and shall be expended within a reasonable amount of time after completion of the development (not to exceed five years) or returned to the developer.

(Ord. No. 2664, § 1(a), 2-8-00; Ord. No. 2904, § 1(a), 3-12-02)